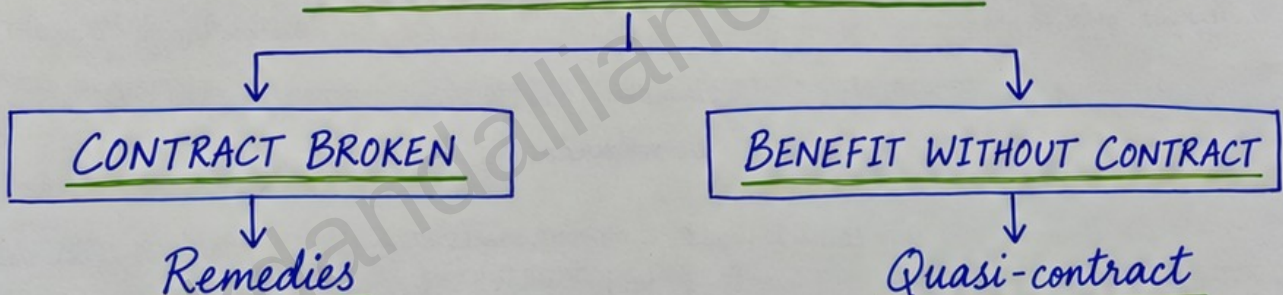


REMEDIES & QUASI-CONTRACTS — ROAD MAP

Q - What is covered in Unit IV?

- ① Breach of contract: meaning and types.
- ② Compensation under sections 73 - 75.
- ③ Ordinary, special, nominal and other kinds of damages.
- ④ Pre-agreed damages and penalties under section 74.
- ⑤ Remedies including specific performance and injunction: brief overview.
- ⑥ Quantum meruit: payment for work done.
- ⑦ Quasi-contractual obligations under sections 68 - 72.
- ⑧ Important decisions and exam questions.

Unit IV - Two Main Branches



- Breach of contract: meaning and types.
- Compensation under sections 73 - 75.
- Ordinary, special, nominal and other kinds of damages.
- Pre-agreed damages and penalties under section 74.
- Specific performance and injunction (brief overview) - with reference to the Specific Relief Act, 1963.

- Quantum meruit: payment for work done.
- Quasi-contractual obligations under sections 68 - 72.
- Important decisions and exam questions.

Note: Indian Contract Act, 1872, with related reference to the Specific Relief Act, 1963 as understood in 2021.

Case study method: Facts → Legal issue → Court's decision → Rule → Application.

Goal: Identify the correct remedy on given facts.

BREACH OF CONTRACT — RECAP

Q - What is a breach ?

A party breaks a binding contract when that party fails or refuses to perform a promised obligation without lawful justification.

ACTUAL breach :

- Failure to perform when performance is due or defective performance.
- Example : A promised to deliver 20 tables on Monday but did not.

ANTICIPATORY breach :

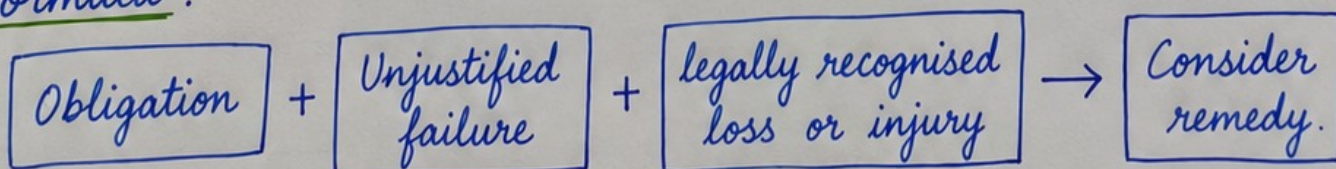
- Before the due date, one party clearly refuses or disables themselves from performing the entire promise.
- Section 39 can allow the other party to end the contract unless that party accepts its continuation.
- Example : On 1 June, A clearly announces that the 15 June delivery will not happen.

Q - What can follow a breach ?

Compensation, appropriate equitable relief, and in some situations termination or restitution.

Important : The remedy depends on the contract, seriousness of breach, evidence and law.

Formula :



COMPENSATION — SECTION 73

Q - Why does the law award damages?

Compensation aims, as far as money reasonably can, to put the innocent party in the position they would have occupied if the contract had been performed.

Under s. 73, recoverable loss is ordinarily one that arose NATURALLY in the usual course of things, or one that the parties KNEW when making the contract was likely to result from its breach.

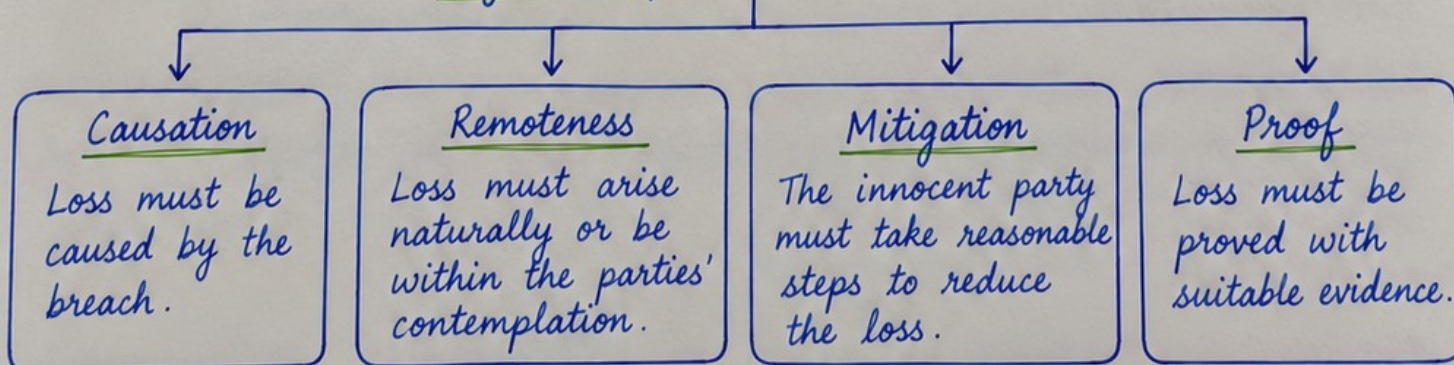
The law excludes REMOTE and INDIRECT loss.

Example: B agrees to deliver flour for ₹ 8,000 but breaches. A purchases equivalent flour for ₹ 9,000. On suitable proof, an extra ₹ 1,000 may be a direct loss.

Q - Are damages meant to punish?

Generally, NO; contractual damages are mainly compensatory.

Always check causation, remoteness, reasonable mitigation, and proof.

Key Principles under Section 73

Leading cases: Hadley v. Baxendale and Murlidhar Chiranjilal.

ORDINARY vs SPECIAL DAMAGES1. ORDINARY / GENERAL DAMAGES:

Losses that naturally arise from the breach in the usual course of events.

Example: If the market price of the promised goods rises, the buyer has to pay the reasonable difference.

2. SPECIAL DAMAGES:

Additional losses caused by unusual circumstances which were known or communicated to the other party when the parties contracted and were likely to result.

Example: If a carrier knows that a specific machine is essential to a factory and delay will halt a particular production line, the resulting losses may be recoverable. The analysis of notice is vital.

<u>ORDINARY / GENERAL</u>	<u>SPECIAL</u>
Losses that arise in the usual and foreseeable course of events.	Additional losses caused by particular circumstances which were known or communicated at the time of contracting.

SECTION 73:

- Loss must satisfy the statutory foreseeability and remoteness rules.
- Not every business loss is recoverable merely because it happened after the breach.
- The claimant must show the causal link between the breach and the loss, and the relevant knowledge of special circumstances where required.

Memory Question: What losses would reasonable parties have expected when they made THIS contract?

CASE — HADLEY v. BAXENDALE(1854, ENGLISH)

Facts: A mill's shaft broke, and a carrier was engaged to transport it so that a replacement could be made. The carrier delayed delivery. The mill owners sought lost profits during the delay.

Issue: Were those lost profits a reasonably foreseeable consequence in the relevant contractual circumstances?

English court: Special losses that were not communicated or ordinarily foreseeable were TOO REMOTE.

Two key ideas:

1

Loss occurring naturally from breach in the usual course.

2

Special loss within parties' reasonable contemplation because special circumstances were known.

This case is an important comparative foundation for section 73 in India.

Application:

→ Ask what both parties knew AT THE TIME OF CONTRACTING.

→ Do not rely only on hindsight after loss.

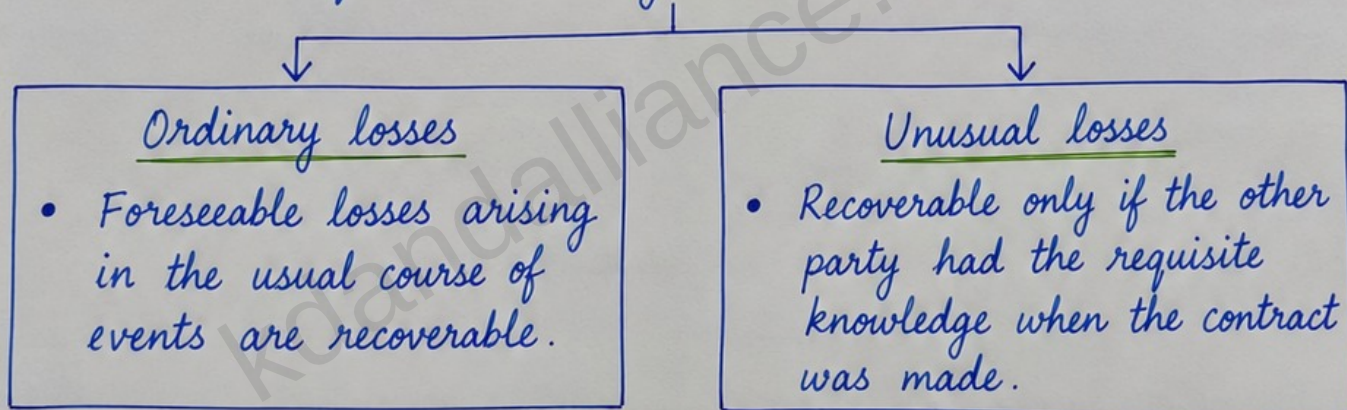
Key takeaway: The case highlights the limits of damages through REMOTENESS and FORESEEABILITY.

CASE — MURLIDHAR CHIRANJILAL v. HARISHCHANDRA (1962)

Full case : Murlidhar Chiranjilal v. Harishchandra Dwarkadas,
AIR 1962 SC 366.

Facts : A commercial sale-of-goods dispute led to a claim for contractual damages. The Supreme Court examined how section 73 limits the amount recoverable.

Principle 1 : Ordinary foreseeable losses arising in the usual course are recoverable; unusual losses require the requisite knowledge when the contract was made.



Principle 2 : The claimant is expected to take REASONABLE STEPS TO MITIGATE loss. A party cannot recover avoidable loss caused by unreasonable inaction.

Exam tip : Work out the loss but also ask whether the claimant reasonably tried to reduce it.

Remember : Compensation puts the claimant in a fair position, not a BETTER position from the breach.

This is a Supreme Court decision, not merely an English illustration.

MITIGATION OF LOSS

Q - Can a person do nothing after breach and claim all later loss?

Normally NO.

Section 73, Explanation, takes account of the means available to remedy the inconvenience caused by non-performance.

A claimant should act reasonably to reduce avoidable loss.

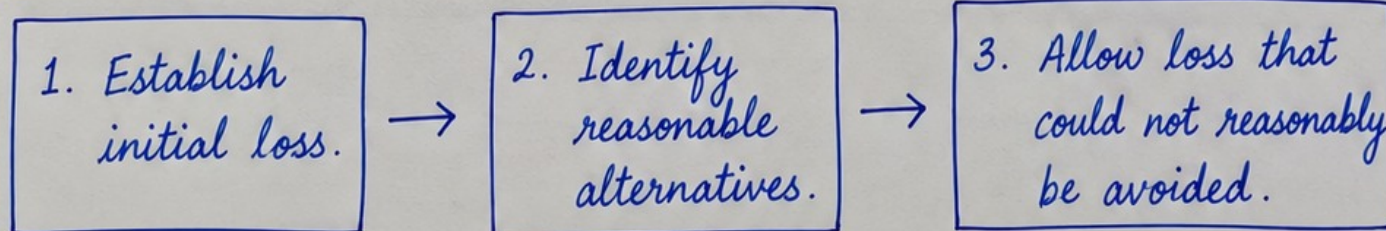
Example: A agrees to supply 50 chairs for ₹10,000 and breaches.

B can reasonably purchase similar chairs nearby for ₹11,000.

B normally cannot wait for months, choose needlessly expensive chairs, and claim all additional costs without explanation.

Note: Mitigation does NOT demand impossible sacrifice, financial risk, or extraordinary measures.

Three steps:



Case: Murlidhar Chiranjilal v. Harishchandra Dwarkadas.

Note: 'Reasonable efforts' is the test, not perfection.

Mark: Avoidable loss should not be charged to the defendant.

NOMINAL, SUBSTANTIAL & SPECIAL DAMAGES.

NOMINAL DAMAGES: A small sum recognising infringement of a contractual right where substantial loss has not been proved, in appropriate circumstances.

SUBSTANTIAL / COMPENSATORY DAMAGES:

An amount reflecting an actual legally compensable loss.

GENERAL DAMAGES:

Typical losses which follow naturally from breach.

SPECIAL DAMAGES:

Unusual additional loss where the necessary special knowledge existed when the parties contracted.

These categories may OVERLAP:

General and special concern foreseeability.

Nominal and substantial concern amount.

Example:

- Late delivery causes proved replacement costs — substantial ordinary damages may follow.
- If a technical breach caused no substantial loss, nominal relief might be appropriate.

Caution: Courts do not award a windfall simply because a promise was broken.

For examination:

- State section 73 before categorising damages.
- Use clear legal examples.

Exemplary & Non-Pecuniary Damages

Q - Can contractual damages punish the party in breach?

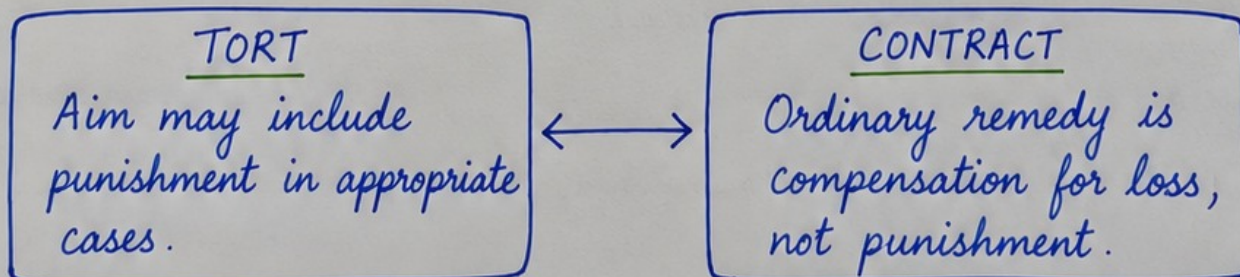
Ordinary contract damages aim to compensate, not punish. So exemplary or punitive damages are exceptional and cannot be assumed in a routine sale or service dispute.

Claims for mental distress, disappointment or injury to feelings are also generally restricted; exceptional contracts whose object includes pleasure, peace of mind or freedom from distress require separate analysis.

Examples:

- A standard delayed delivery ordinarily leads to proved financial loss, not an automatic punishment.
- A particular travel or leisure contract may raise different questions depending on the governing law and facts.

Keep this distinction:



In an Indian problem use the applicable statute and binding authorities first; English decisions are comparative.

Exam warning: Do not treat 'exemplary' as a routine category guaranteed by s. 73.

LIQUIDATED DAMAGES & PENALTY — SECTION 74

Q - What if the contract names ₹ 50,000 as payable on breach?

Section 74 allows reasonable compensation, subject to the contractual ceiling where a sum is named or a penalty is stipulated. The stated amount does not automatically become payable in every case.

'Liquidated damages' commonly describes an agreed estimate; 'a penalty' commonly aims to deter breach, but Indian s. 74 focuses on reasonable compensation.

Example: A construction contract names ₹ 5,000 for each week of late delivery.

Examine breach, actual or likely loss, difficulty of proof and whether the amount reasonably estimates compensation.

Section 74 is read alongside s. 73.

Important: The court may award no more than the stated ceiling, but not a windfall.

Liquidated damages

- Agreed estimate of loss
- Pre-estimate at the time of contract
- Enforceable to the extent of reasonable compensation under s. 74

↔
Both fall
under
Section 74

Penalty

- Aims to deter breach
- Amount not a genuine pre-estimate of loss
- Not automatically payable in full
- Court awards only reasonable compensation under s. 74

Cases: Fateh Chand; Maula Bux; ONGC v. Saw Pipes; Kailash Nath.

CASE — FATEH CHAND v. BALKISHAN DASS (1963)

Facts : A transaction involving sale of property led to a dispute about forfeiting money paid under the agreement when the purchaser defaulted.

Issue : Can the stipulated amount simply be forfeited without considering reasonable compensation?

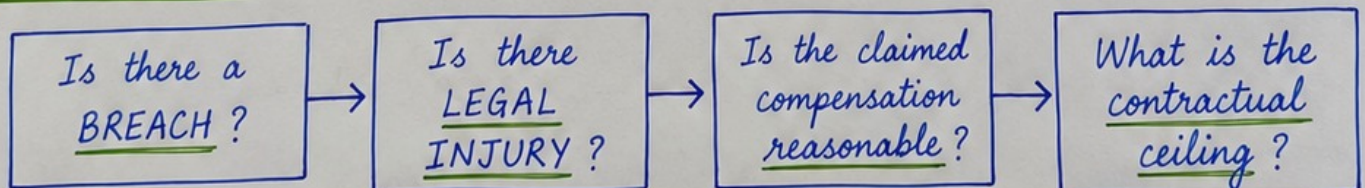
Supreme Court :

- Section 74 governs contractual sums fixed for breach and appropriate forfeiture provisions.
- The affected party is entitled only to REASONABLE COMPENSATION, not automatically the entire named amount.
- The court's award cannot exceed the contractual ceiling.

Legal principle : A penalty clause does not allow automatic punishment or unjust enrichment.

Citation : AIR 1963 SC 1405.

Exam method :



Contrast :

Genuine security arrangement

- A reasonable pre-estimate of loss.
- Protects the innocent party's legitimate interest.
- Permissible under Section 74.

V.

Excessive penalty

- Disproportionate to actual loss.
- Leads to unjust enrichment.
- Cannot be automatically enforced.
- Court will award only reasonable compensation, subject to the contractual ceiling.

CASE — MAULA BUX v. UNION OF INDIA (1969)

Facts : Government supply contracts required security deposits, and the deposits were forfeited following alleged failures to perform. The issue was whether the forfeited amounts could be kept without proper proof of loss.

Supreme Court :

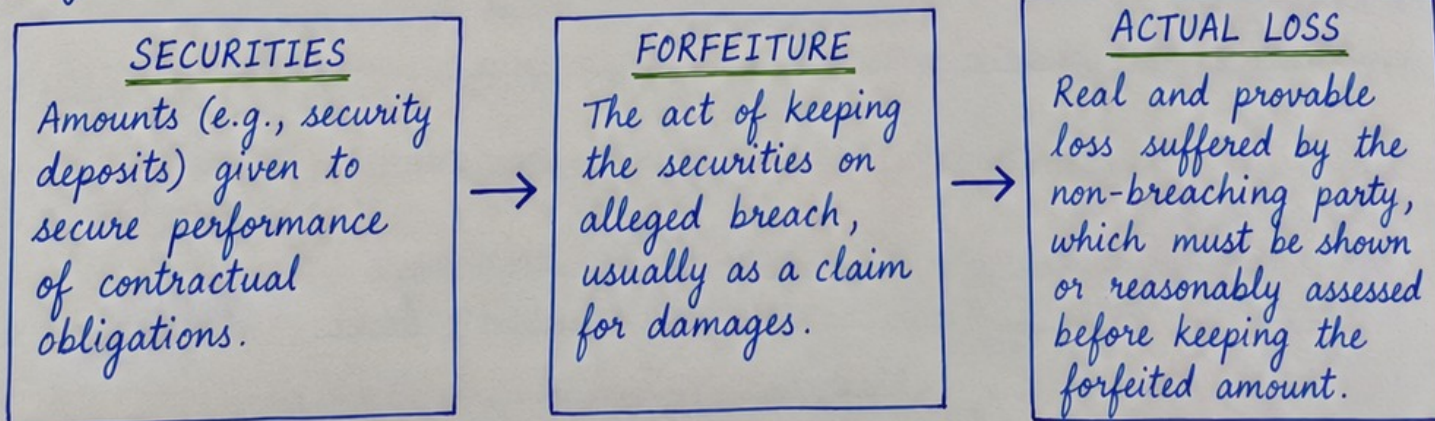
- Where the loss is capable of being calculated in money, the party claiming compensation must ordinarily provide relevant proof of that loss.
- When exact assessment is genuinely difficult or impossible, the law may permit reasonable compensation within the statutory limit.
- Section 74 does NOT make every forfeiture automatic.

Case citation : (1969) 2 SCC 554.

Exam question : Can the claimant show a real loss, and can that loss be assessed reasonably ?

Comparison with Fateh Chand : Both cases underline "reasonable compensation", not automatic punishment.

Key terms :



CASE — KAILASH NATH ASSOCIATES v. DDA (2015)

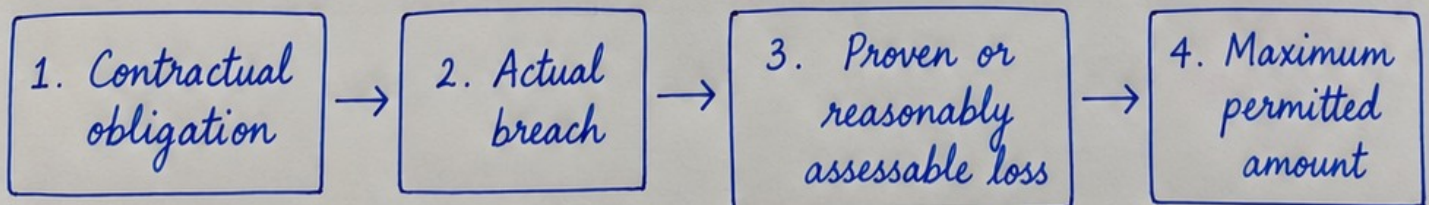
Facts : In a dispute over a property auction and earnest money, the Delhi Development Authority sought to retain a deposit. The Supreme Court considered the requirements for contractual forfeiture.

Holding : Section 74 does not justify retaining money merely because the agreement mentions forfeiture. BREACH and LEGAL INJURY are central; reasonable compensation cannot be assumed where the claimant suffered no loss. The facts and terms of the transaction matter, particularly whether the alleged default truly amounted to breach.

Citation : (2015) 4 SCC 136.

Practical application : A deposit clause alone is not conclusive.

Check the following:



Study link : Fateh Chand + Maula Bux + Kailash Nath explain careful application of s. 74.

CASE — ONGC v. SAW PIPES (2003)

Facts: A supply contract contained a clause fixing damages for delay. Disputes arose about whether agreed damages could be granted without proving exact loss.

Supreme Court: Sections 73 and 74 must be read together.

In some contracts, proving exact damage is genuinely difficult; when the agreed amount is a REASONABLE GENUINE PRE-ESTIMATE and not an unreasonable penalty, it can guide compensation within the statutory conditions.

Citation: (2003) 5 SCC 705.

Important: This does NOT mean that every sum written into a contract is always payable.

Read it with Fateh Chand and Kailash Nath.

Exam comparison:

May support reasonable amount

- Genuine estimate of probable loss (pre-estimate).
- Loss is genuinely difficult to measure in exact terms.

Do not assume automatic recovery

- Obvious penalty (unreasonable and extravagant amount).
- No legal injury or no loss proved.

Key: reasonableness and the facts control.

CALCULATING DAMAGES — PRACTICAL EXERCISE

Situation: A agreed to supply 100 identical notebooks for ₹10,000. A wrongfully refuses to supply. B promptly buys 100 equivalent notebooks for ₹11,500 at the reasonable market price.

Direct price difference: B can claim the difference between the contract price and the reasonable market price paid for substitutes.

Possible DIRECT PRICE DIFFERENCE = ₹11,500 - ₹10,000 = ₹1,500.

Other losses: B may also prove other ordinary foreseeable loss which arises from the breach, provided the conditions of s. 73 are satisfied. Care must be taken not to count the same loss twice.

Contrast (unnecessary luxury purchase): If B makes an unnecessary luxury purchase costing ₹20,000 when suitable replacements were available for ₹11,500, the extra avoidable amount is not automatically recoverable. The claimant must act reasonably to mitigate the loss.

<u>Reasonable replacement</u>	<u>Unnecessary luxury purchase</u>
- Price paid = ₹11,500 - Recoverable price difference = ₹1,500 (subject to s. 73) - Other foreseeable losses may also be recovered (no double counting).	- Price paid = ₹20,000 - Extra avoidable amount (₹20,000 - ₹11,500) is not automatically recoverable. - Loss must be reasonable and not self-inflicted; duty to mitigate applies.

Checklist: Is B entitled to damages?

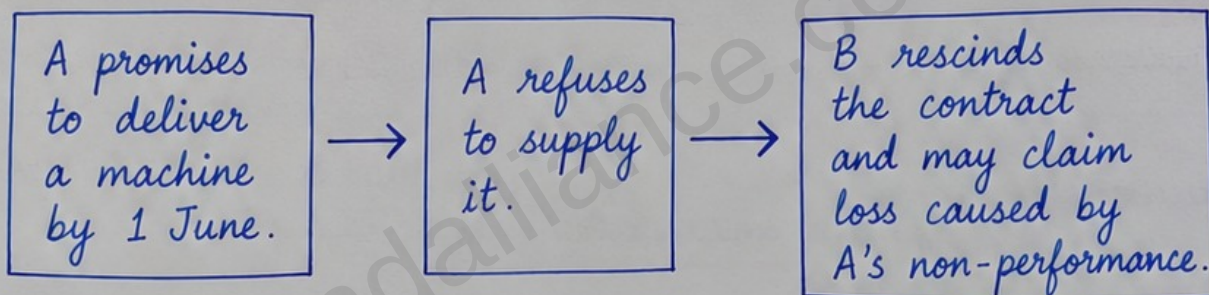
- ① Valid contract?
- ② Breach by A?
- ③ Causation - was the loss caused by the breach?
- ④ Is the loss an ordinary loss or a known special loss?
- ⑤ Did B take reasonable steps to mitigate the loss?
- ⑥ Evidence of the amount of loss?
- ⑦ Is s. 74 relevant (e.g. liquidated or penalty clause)?

<u>CONTRACT DAMAGES</u> = legally compensable loss, <u>NOT</u> guaranteed profit from litigation.
--

COMPENSATION AFTER RIGHTFUL RESCISSION
(SECTION 75)

Section 75 of the Indian Contract Act, 1872 gives compensation to a party who rightfully rescinds a contract.

Example : A promises to deliver a machine by 1 June. A refuses to supply it. B rightfully ends the contract and may claim loss caused by A's non-performance.



This is different from cancellation merely because a party changes their mind. Rescission must be legally justified.

Remember :

- ① Section 64 addresses restoration of benefits when a voidable contract is rescinded.
- ② Section 75 concerns compensation to the party rightfully rescinding.

Quick Question :

Does every cancellation lead to damages?

No. The legal ground and proved loss matter.

RESTITUTION AND SECTION 65

Q - What does Section 65 deal with?

Section 65 deals with an agreement discovered to be void, or a contract that later becomes void.

A person who received an advantage under it must restore that advantage, or compensate for it, to the person from whom it was received.

Q - Example.

A receives an advance for a lawful contract.

Later, performance becomes impossible and the contract becomes void.

A may have to restore the advance under Section 65.

Q - Key Point.

Restitution aims to return unjustly retained benefits; damages under Section 73 compensate loss caused by a breach. Both are not the same.

Q - Compare.

Restitution

"Return what you received".



It requires the person to give back the advantage received.

Damages

"Pay for the loss you caused"



It compensates the injured party for the loss caused by a breach.

REMEDIES: A QUICK MAP

When a contract goes wrong, identify the remedy carefully.

① Damages, Sections 73 and 74 :

Money for compensable loss or reasonable compensation.

② Rescission :

Legally ending the contract where allowed.

③ Specific performance :

A court order requiring a party to perform an enforceable obligation, subject to the Specific Relief Act, 1963.

④ Injunction :

An order preventing or requiring conduct in an appropriate case.

⑤ Quantum meruit :

Reasonable payment for work or services in a legally recognised situation.

⑥ Restitution :

Restoration of a benefit, including under Section 65.

Ask: {
→ What obligation existed?
→ What happened?
→ Which remedy fits the facts?

SPECIFIC PERFORMANCE: BASICS1 - Meaning

Specific performance means an order directing a person to carry out the promised contractual obligation.

2 - Governing Law

It is governed by the Specific Relief Act, 1963.

3 - Section 10

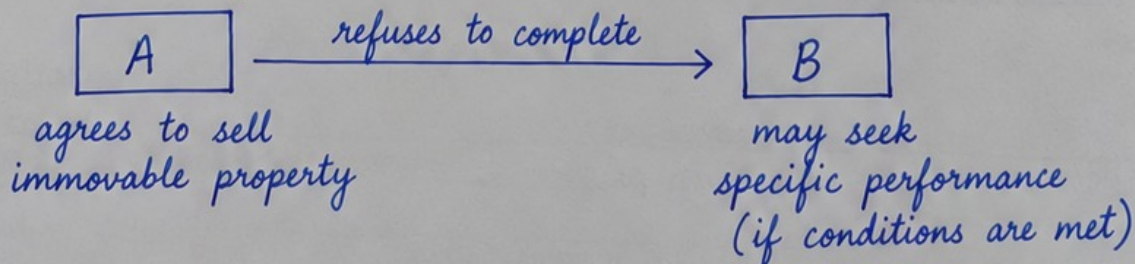
Section 10, as amended in 2018, says specific performance shall be enforced subject to Sections 11(2), 14 and 16.

4 - Not available for every contract

It is not available for every contract. Section 14 identifies contracts that cannot be specifically enforced; Section 16 deals with personal bars to relief.

5 - Example

A agrees to sell a particular immovable property and refuses to complete. B may seek specific performance if the statutory conditions are met.

6 - Distinction from Damages

Do not confuse it with damages: damages award money; specific performance directs the promised act.

INJUNCTIONS AND PREVENTIVE RELIEF

An injunction is a court order to prevent a wrongful act, or sometimes to require action.

The Specific Relief Act, 1963 regulates injunctions.

- Section 38 : concerns perpetual injunctions.
- Section 39 : concerns mandatory injunctions.
- Section 42 : concerns injunctions to enforce a negative agreement, subject to its conditions.

Example : A contract contains a valid promise not to disclose confidential plans. The court may consider an injunction if the legal requirements are satisfied.



Important : Injunctions are not automatic simply because a contract was breached. The court examines the statute, evidence and circumstances.

Compare :

- damages = money.
- injunction = direction about conduct.

QUANTUM MERUIT: MEANING① Meaning

Quantum meruit is a Latin phrase meaning 'as much as is deserved'.

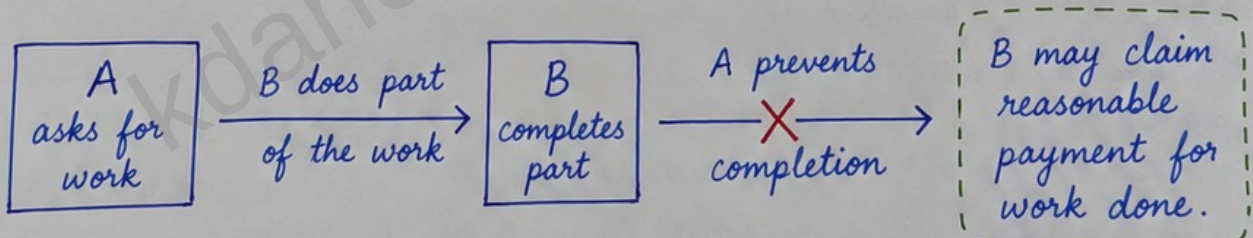
It describes a claim for reasonable remuneration for work or services in certain circumstances.

② Illustration

Suppose A asks B to complete useful work.

B completes part of the task, but A wrongfully prevents completion.

Depending on the facts, B may claim reasonable payment for the work done.

③ Important Points

→ Quantum meruit is not an automatic right to the full original contract price.

→ It depends on the legal basis, accepted benefit and circumstances.

④ Memory Aid

'How much useful work was done, and what is its reasonable value?'

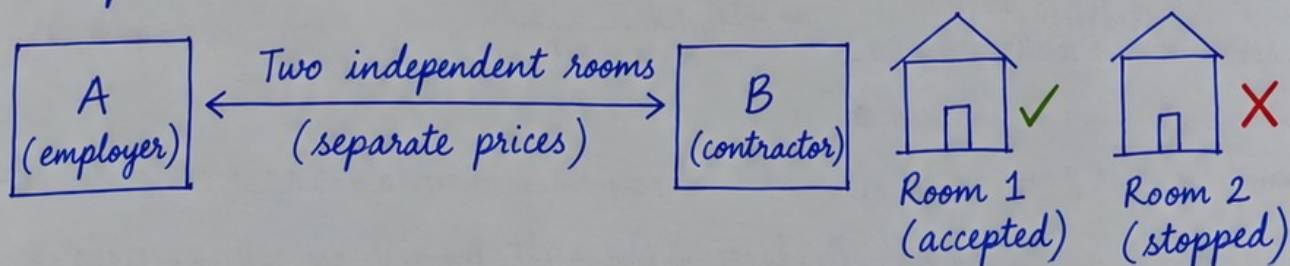
WHEN CAN QUANTUM MERUIT APPLY?

Quantum meruit → reasonable payment for work done.

It may apply in the following situations:

- ① One party prevents the other from completing agreed work.
- ② A divisible contract allows payment for an accepted part.
- ③ Lawfully supplied services are accepted without an intention to provide them free of charge, which may attract Section 70.
- ④ A contract becomes unenforceable, but a separate restitutionary basis for payment may exist.

Illustration: A hires B to build two independent rooms for separate prices. A accepts the first completed room but stops the second.



Payment depends on the contract terms and the facts.

Caution: A person who simply abandons an entire contract without justification cannot always demand payment for partial work.

CASE LAW: PLANCHE v COLBURN (1831)① Facts :

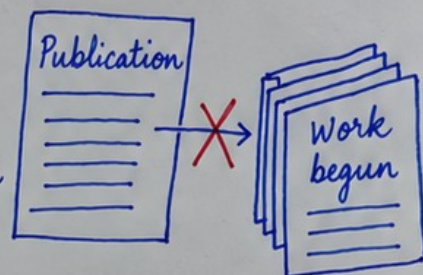
A publisher engaged an author to write for a planned publication. The author began preparing the work, but the publisher discontinued the project.

② Issue :

Can the author recover payment even though the agreed work was not completed?

③ Principle :

When the other party prevents completion, reasonable remuneration for the work undertaken may be recoverable. This case is often used to explain quantum meruit.

④ Example :

A client cancels a commissioned project after useful work has already been undertaken. The result depends on the contract and the facts.

⑤ Exam line :

Quantum meruit concerns reasonable value, not automatically the promised full fee.

QUASI-CONTRACTS: INTRODUCTION

Q - What are Quasi-Contracts?

A quasi-contract is not an ordinary contract made by offer and acceptance.

The law imposes a duty similar to a contractual duty to avoid unjust enrichment.

Relevant Provision:

Sections 68 to 72 of the Indian Contract Act are titled 'certain relations resembling those created by contract'.

Five key provisions:

- ① Section 68: Necessaries supplied to an incapable person.
- ② Section 69: Paying another's legal obligation to protect one's interest.
- ③ Section 70: Lawful non-gratuitous act.
- ④ Section 71: Finder of goods.
- ⑤ Section 72: Money paid or property delivered by mistake or coercion.

Law imposes a duty



To prevent
unjust enrichment



Quasi-contractual
liability

Main idea:

Nobody should unfairly keep another person's benefit when the law requires repayment.

SECTION 68: SUPPLY OF NECESSARIES1) When does Section 68 apply?

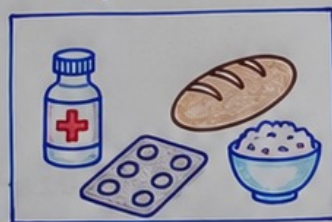
Section 68 applies when necessities suited to the condition in life of a person incapable of contracting, or persons whom that individual is legally bound to support, are supplied.

2) Right of supplier

The supplier can be reimbursed from that incapable person's property.

3) Example

A supplies essential medicine and basic food to a minor. If these qualify as necessities, A may claim reimbursement from the minor's property.

4) Crucial distinction

→ The minor is not personally liable under an ordinary contract.

→ Reimbursement is limited to the legal rule and the person's property.

5) Not every luxury is a 'necessary'.

Ask whether the item was genuinely suited to the person's needs.

SECTION 69: PAYING ANOTHER'S DUE

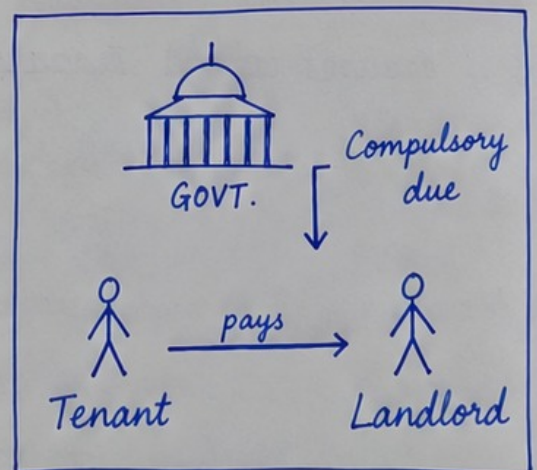
Section 69: Concerns a person interested in paying money that another person is bound by law to pay, who therefore makes the payment.

→ The payer may be reimbursed by the person legally bound to pay.

Example: A tenant's lawful interest in leased property is threatened because the landlord fails to pay a compulsory government due. The tenant pays to protect that interest. Section 69 may allow reimbursement if its conditions are satisfied.

Three clues:

- ① Another person was legally obliged to pay.
- ② You had an interest in making payment.
- ③ You actually paid.



Note: A mere volunteer who pays with no protected interest is different.

SECTION 70 AND B. K. MONDALQ - Section 70 : Meaning and Scope

Section 70 applies where one person lawfully does something for another, or delivers something, without intending to act gratuitously, and the other enjoys its benefit.

The beneficiary must compensate or restore the thing.

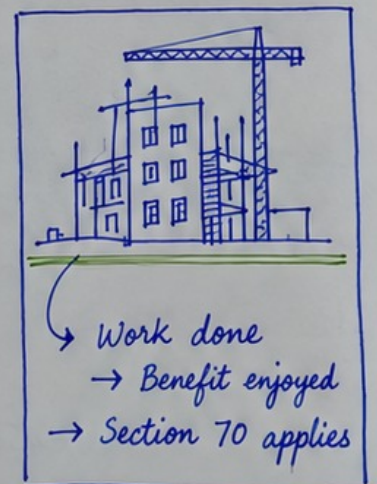
Q - B. K. Mondal Case

State of West Bengal v. B. K. Mondal & Sons,
AIR 1962 SC 779.

Building work was performed and the State enjoyed the benefit. The Supreme Court examined restitution under Section 70 despite problems with a formal contract.

Q - Three Essential Elements

- ① Lawful act - the act done or thing delivered must be lawful.
- ② No intention to provide it free - it must not be intended to be done gratuitously.
- ③ Benefit enjoyed - the other person must have enjoyed the benefit of the act or thing.

Q - Important Point

Payment is not due merely because unrequested work was done. Both a lawful act and an enjoyed benefit are essential.

SECTION 71: FINDER OF GOODS

Q - What does Section 71 provide?

A person who finds goods belonging to another and takes them into custody has the same responsibility as a bailee.

Example: A finds someone's bag and keeps it safely while trying to locate its owner.

→ A should exercise reasonable care and not treat it as personal property.



Key Points:

- ① The finder must not misuse the goods.
- ② The legal responsibility begins when the finder takes the goods into custody.
- ③ Section 71 does not say that finding property automatically transfers ownership to the finder.

Memory line:

Found goods + custody = bailee-like duties.

Q - Can the finder sell the goods whenever convenient?

No. Special legal conditions apply.

SECTION 72 AND KANHAIYA LAL1. Section 72 :

A person to whom money has been paid, or something delivered, by mistake or under coercion must repay or return it.

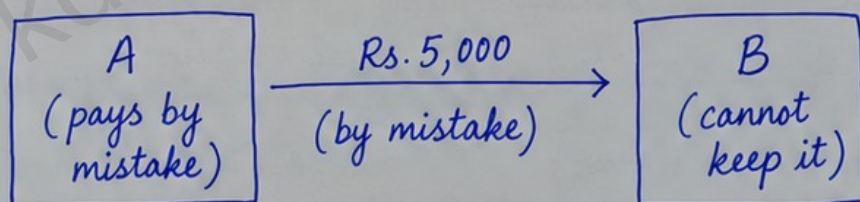
Mistake may concern law or fact.

2. Case : Sales Tax Officer v Kanhaiya Lal Mukundlal Saraf
AIR 1959 SC 135.

The Supreme Court held that money paid under a mistake of law can fall within Section 72.

3. Example :

A transfers Rs. 5,000 into B's account by mistake.
B cannot simply keep it.

4. Important :

A claim still depends on facts and applicable law.

5. Comparison with Section 70 :

- Section 70 concerns a non-gratuitous benefit.
- Section 72 concerns mistaken or coerced payment or delivery.

Unit IV: Quick Revision

Breach and damages:

Actual breach = failure when performance is due.

Anticipatory breach = refusal before the due date.

S.73: natural or known special loss; no remote loss.

A claimant must take steps to reduce the loss.

S.74: reasonable compensation, not every penalty.

Other remedies:

S.75: compensation after rightful rescission.

S.65: restoring an advantage where applicable.

Quantum meruit: reasonable payment for work.

Specific relief is subject to its own statute.

Quasi-contracts: Sections 68-72:

68: necessities for person unable to contract.

69: interested person pays another's legal due.

70: lawful non-gratuitous act; benefit enjoyed.

71: finder of goods has duties like a bailee.

72: return money paid by mistake or coercion.

Case laws to remember:

Hadley; Murlidhar; Fateh Chand; Maula Bux.

Kailash Nath; ONGC v Saw Pipes; Planche;

B. K. Mondal; Kanhaiya Lal.

Revise: damages, quantum meruit and Sections 68-72.